

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THE ANNUITY, WELFARE AND
APPRENTICESHIP SKILL IMPROVEMENT &
SAFETY FUNDS OF THE INTERNATIONAL
UNION OF OPERATING ENGINEERS, LOCAL 15,
15A, 15C & 15D, AFL-CIO, BY THEIR TRUSTEES
JAMES T. CALLAHAN, FRANCIS P. DIMENNA,
DANIEL J. SCHNEIDER, and JOHN BRUNETTI,

Plaintiffs,

-against-

J.H. REID GENERAL CONSTRUCTION, INC.,

Defendant.

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NICHOLAS G. GARAUFIS, United States District Judge.

ORDER

13-CV-6467 (NGG) (VVP)

Plaintiffs the Annuity, Welfare and Apprenticeship Skill Improvement & Safety Funds of the International Union of Operating Engineers, Local 15, 15A, 15C & 15D, AFL-CIO, by their Trustees James T. Callahan, Francis P. Dimenna, Daniel J. Schneider, and John Brunetti ("Plaintiffs") commenced this action on November 21, 2013, alleging violations of the Employee Retirement Income Security Act, 29 U.S.C. §§ 1001, et seq. ("ERISA"). (Compl. (Dkt. 1).)

After Defendant J.H. Reid General Construction, Inc. failed to answer or appear in this case, Plaintiffs moved for default judgment on January 17, 2014. (Pls.' Mot. for Default J. (Dkt. 9).) On April 10, 2014, the court referred this motion to Magistrate Judge Viktor V. Pohorelsky for a Report and Recommendation ("R&R") pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b)(1). (Dkt. 14.) On September 11, 2014, Judge Pohorelsky issued an R&R recommending that Plaintiffs' motion be granted and that Plaintiffs be awarded (1) unpaid contributions in the amount of \$16,696.00; (2) interest on the unpaid contributions in the amount of \$1,780.20 through August 31, 2014, plus \$1.94 per day thereafter to the date of

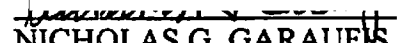
judgment; (3) liquidated damages in the amount of \$1,780.20, plus \$1.94 per day thereafter to the date of judgment; (4) audit costs of \$4,918.00; and (5) attorney's fees and costs in the amount of \$4,618.75. (R&R (Dkt. 21).)

No party has objected to Judge Pohorelsky's R&R, and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2). (See also R&R at 12 ("Any objections to the Report and Recommendation above must be filed with the Clerk of the Court within 14 days of receipt of this report. Failure to file objections within the specified time waives the right to appeal any judgment or order entered by the District Court in reliance on this Report and Recommendation.")) Therefore, the court reviews the R&R for clear error. See Gesualdi v. Mack Excavation & Trailer Serv., Inc., No. 09-CV-2502 (KAM) (JO), 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010); La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); cf. 28 U.S.C. § 636(b)(1). Finding no clear error, the court adopts the R&R in full. See Porter v. Potter, 219 F. App'x 112 (2d Cir. 2007) (summary order).

Accordingly, the court ADOPTS IN FULL the R&R and ENTERS default judgment against Defendant. The court AWARDS Plaintiffs (1) unpaid contributions in the amount of \$16,696.00; (2) interest on the unpaid contributions in the amount of \$1,780.20 through August 31, 2014, plus \$1.94 per day thereafter to the date of judgment; (3) liquidated damages in the amount of \$1,780.20, plus \$1.94 per day thereafter to the date of judgment; (4) audit costs of \$4,918.00; and (5) attorney's fees and costs in the amount of \$4,618.75.

SO ORDERED.

Dated: Brooklyn, New York
September 30, 2014

S/ Nicholas G. Garaufis

NICHOLAS G. GARAUFIS
United States District Judge